

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 166

HOUSING ALTERATION REVOLVING LOAN FUND PROGRAM

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Historical Note: Chapter 166 of Title 15, Hawaii Administrative Rules, is based substantially upon Chapter 319 of Title 6, Hawaii Administrative Rules. [Eff 1/2/92; am and comp 10/24/96; R **OCT 25 1999**]

SUBCHAPTER 1

GENERAL PROVISIONS

\$15-166-1 Purpose. This chapter implements part III, subpart I of chapter 201G, HRS, pertaining to the housing alteration revolving loan fund, and which purpose is to enable persons with physical disabilities to maintain independent lifestyles by offering low interest loans to make necessary alterations to their residences. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-341)

\$15-166-2 Definitions. As used in this chapter: "Annualized gross income" means gross monthly income of an eligible applicant (or applicants) multiplied by twelve.

"Board" means the board of the directors of the corporation.

"Corporation" means the housing and community development corporation of Hawaii.

"Eligible applicant" means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least eighteen years of age;

- (4) Has, or someone who resides in the person's household has a physical disability;
- (5) Owns the residence where the necessary alterations are being proposed, in fee simple or leasehold, or rents the residence and has written authorization from the landlord to perform the necessary alterations;
- (6) Does not have annualized gross income that exceeds the income limits established by the corporation;
- (7) Possesses the financial resources and creditworthiness to repay the loan made from the fund; and
- (8) Except for loans made pursuant to section 15-166-10.1, provides adequate security to repay the loan made from the fund.

"Financial institution" means an institution as defined in section 412:1-109, HRS, 12 U.S.C. §21 (national bank) and 12 U.S.C. §1461 (federal savings and loan association or federal savings bank).

"Gross monthly income" means the sum of the monthly gross pay, part-time employment, bonuses, dividends, interest, royalties, pensions, Veteran's Administration (VA) compensation, net rental income, etc. and other income such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income from trusts, and income received from business activities or investments.

"Housing alteration revolving loan fund" also means "the fund."

"HRS" means Hawaii Revised Statutes, as amended.

"Landlord" means the owner, lessor, sublessor, assigns or successors in interest of the dwelling unit or the building of which it is a part and in addition means any agent of the landlord.

"Loan" means a necessary alteration and a necessary alteration assessment loan.

"Necessary alteration assessment" means an assessment of the necessary alterations needed by an eligible applicant which will be used to determine the cost of the necessary alterations.

"Necessary alterations" means modifications to the residence which are required in order to accommodate the person with the physical disability to enable that person to maintain an independent lifestyle, and includes only those modifications which upon completion

are fixtures to the realty.

"Physical disability" means an impairment which is either aural, environmental, mobile, or visual, and is of continued and indefinite duration which impedes the person's ability to live independently.

"Residence" as used herein means the dwelling in which the person with the physical disability lives in, or will live in, and for which dwelling the necessary alterations are to be made. [Eff **OCT 25 1999**]
(Auth: HRS §201G-344) (Imp: HRS §201G-342)

SUBCHAPTER 2

HOUSING ALTERATION REVOLVING LOAN FUND PROGRAM

§15-166-5 Corporation's right to contract for services of financial institution. The corporation is authorized to enter into agreements with or purchase services from any financial institution for services required for the purposes of this chapter.
[Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-6 Procedural guide. The corporation shall prepare a procedural guide for financial institutions originating loans under this chapter. The guide shall be consistent with these rules and shall be available for public inspection at the principal office of the corporation during the corporation's normal business hours. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-7 Use of loan. Loans may be made under this chapter for the purpose of financing necessary alteration assessments or necessary alterations to the residence or both in which the person with the physical disability resides. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-8 Establishment of physical disability status. For purposes of this chapter, a person shall be considered as having a physical disability:

- (1) If the person's disability falls into any of the following categories:
 - (A) Aural
 - (B) Environmental
 - (C) Mobile
 - (D) Visual; and
 - (2) The person presents any of the following:
 - (A) A current certification, dated within twelve months from the date of application, from a State of Hawaii licensed physician who has evaluated the person as having a physical disability; or
 - (B) A State of Hawaii income tax exemption issued due to the physical disability of the person; or
 - (C) A current county handicap parking placard dated within four years from the date of application.
- [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-342)

§15-166-9 Establishment of eligible alterations.

Alterations which qualify for loans under this chapter must be necessary alterations. To assist in the determination of whether the proposed modification is necessary to accommodate the person's specific disability, the chart entitled "Exhibit A", dated August 27, 1999, attached at the end of this chapter shall be used to provide guidance to the financial institution in making a determination. [Eff **OCT 25 1999**]
] (Auth: HRS §201G-344) (Imp: HRS §201G-342)

§15-166-10 Amount of necessary alteration loan.

The maximum amount of the loan available under this section shall be \$25,000 per residence. The preliminary amount of the loan shall be based upon the estimates of the materials and services for the necessary alterations, including, if applicable, the estimated cost of removal of the necessary alterations. The estimates are to be provided by the eligible applicant within sixty days of the application date and verified by the corporation. The actual amount of the loan shall be based upon the eligible applicant's presentation to the financial institution of a bill

from the provider of the services or materials or both, for the necessary alterations, and, if applicable, the estimated cost of removal of the necessary alterations. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-342)

§15-166-11 Necessary alteration assessment loan. Loans made under this section shall be for the purpose of financing the cost of the necessary alteration assessment for an eligible applicant and the financial institution shall comply with the loan terms and procedures set forth in the procedural guide. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-342)

§15-166-12 Removal of necessary alterations from rented residence. A portion of the loan proceeds may be set aside where the residence in which the necessary alterations are to be made is rented by the eligible applicant and where the landlord of said residence requires the removal of the necessary alterations when the tenant vacates the residence. The amount to be set aside shall be used to pay for the estimated cost of removal of the necessary alterations and shall be held in the name of the corporation in an interest bearing account in a financial institution. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-13 Term of necessary alteration loan. The term of the loan shall not exceed thirty years. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-14 Interest rate on necessary alteration loan. The interest rate on the loan offered under this chapter shall not exceed five per cent. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-15 Application for necessary alteration loan, procedure. The following procedure is

established for loans made under this section:

- (1) The corporation shall provide any interested applicant with the name(s) of those financial institutions selected by the corporation to originate and service loans under this part.
- (2) Application for a loan shall be made directly to the financial institution and shall fully describe the necessary alterations proposed for the residence.
- (3) All sources of income reported by the applicant to the financial institution shall be subject to verification and for this purpose, a copy of the applicant's latest signed federal and state income tax returns shall be made available to the financial institution.
- (4) The dollar amount of the loan sought shall be based on estimates from the supplier of the materials and if applicable, the supplier of the services.
- (5) The corporation shall require a notarized certification that the loan proceeds shall be used only for payment for the necessary alterations to the residence.

[Eff **OCT 25 1999**] (Auth: HRS §201G-344)
(Imp: HRS §201G-343)

§15-166-16 Fees. The eligible applicant is responsible for payment for all fees charged by the financial institution in connection with the application for a loan under this chapter.

[Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-17 Release of loan proceeds. Any release of loan proceeds will be as follows:

- (1) No funds shall be authorized for release until the eligible applicant promptly submits to the financial institution a bill, payment for which is verified in writing by the eligible applicant, from the provider of services or materials supplier or both, for the necessary alterations.
- (2) The financial institution, with the approval of the corporation, shall release the loan

proceeds within thirty days of the receipt of the bill for services or materials or both and the written authorization to pay as described in paragraph (1).

- (3) The financial institution shall release the funds by check made payable in the joint names of the eligible applicant and the provider of services or the materials supplier or both. If the sums shown on the bills have been fully paid by the eligible applicant, the financial institution shall release the funds by check made payable to the eligible applicant.
[Eff **OCT 25 1999**] (Auth: HRS §201G-344)
(Imp: HRS §201G-343)

§15-166-18 Security for loan. Except for loans made pursuant to section 15-166-11, all loans must be secured by real or personal property. If the property is not owned by the eligible applicant, the eligible applicant must obtain the written consent of the property's owner to use the property as security for the repayment of the loan. Personal property acceptable to the corporation as security for repayment of the loan includes, but is not limited to, saving accounts and marketable securities. Other personal property may be accepted by the corporation if, in the determination of the corporation, the property adequately secures the corporation's interest in repayment of the loan. [Eff **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

§15-166-19 Establishment of mortgage lien; protection of security. If the loan is secured by a mortgage lien on realty, the financial institution shall promptly record or file or both the lien with the bureau of conveyances or the land court of the State of Hawaii as the case may be, to ensure the creation of a valid lien on the mortgaged property. If the applicant has provided personal property as security for repayment of the loan, the financial institution shall take measures to ensure the preservation of the security for the period of the loan, including for example, securing the physical possession of the evidence of title to the property. [Eff **OCT 25 1999**]

(Auth: HRS §201G-344) (Imp: HRS §201G-343)

\$15-166-20 Acceleration of maturity of loan. The occurrence of either of the following events shall be sufficient grounds for the corporation, at its option, to accelerate the maturity of the loan:

- (1) The person with the physical disability ceases to occupy the residence to which necessary alterations were made with the loan funds, as the person's residence; or
- (2) Failure to respond within thirty days to the corporation's request to verify the continued occupancy of the person with the physical disability. [Eff. **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

\$15-166-21 Default of loan. The occurrence of any of the following events shall be sufficient grounds for the corporation, at its option, to treat the loan to be in default:

- (1) The property described in the mortgage or security agreement is conveyed or transferred. Provided, however, that a transfer of title will be permitted if it appears to the satisfaction of the corporation that the transfer was effected for estate planning purposes and the corporation's security interest is unaffected by the transfer;
- (2) The eligible applicant fails to comply with any agreement executed for the purpose of securing the loan; or
- (3) The corporation determines that any statement made by the eligible applicant in the loan application or other loan document or both is false. [Eff. **OCT 25 1999**] (Auth: HRS §201G-344) (Imp: HRS §201G-343)

\$15-166-22 Corporation's rights upon default of loan. With respect to any loan made under this chapter, which is in default under the terms thereof, the corporation may:

- (1) Renegotiate, refinance, or foreclose the loan;

- (2) Waive any default or consent to the modification of the terms of the loan or the security agreement;
- (3) Commence any action to protect or enforce any right conferred upon the corporation by any law, mortgage, insurance policy, contract, or other agreement;
- (4) Bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan; or
- (5) Operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan. [Eff **OCT 25 1999**] (Auth: HRS \$201G-344) (Imp: HRS \$201G-343)

\$15-166-23 Loan not available for refinancing. No funds under this chapter shall be available for the refinancing of existing loans, except for loans made pursuant to section 15-166-11. [Eff **OCT 25 1999**] (Auth: HRS \$201G-344) (Imp: HRS \$201G-343)

\$15-166-24 Occupancy. The person with the physical disability shall utilize the residence as his or her principal residence for the life of the loan. [Eff **OCT 25 1999**] (Auth: HRS \$201G-344) (Imp: HRS \$201G-343)

\$15-166-25 False information in application. By signing the application, the eligible applicant certifies that the information provided in the application are true and correct. The eligible applicant shall be subject to criminal charges or civil action or both under the laws of the State of Hawaii if false information is provided. [Eff **OCT 25 1999**] (Auth: HRS \$201G-344) (Imp: HRS \$201G-343)

SUBCHAPTER 3

MISCELLANEOUS PROVISIONS

\$15-166-30 Waiver. The board may by resolution

waive or vary provisions of these rules or any process
or procedure established by these rules in order to
conform to applicable federal and state laws,
regulations and requirements. [Eff **OCT 25 1999**]
(Auth: HRS §201G-344) (Imp: HRS §201G-343)

ALTERATION CRITERIA GUIDE

EXHIBIT A

Chapter 15-166

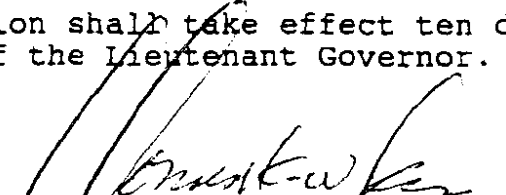
August 27, 1999


<u>Disability</u>	<u>Purpose of Modification</u>	Examples of Necessary Alterations Including, But Not Limited to:
Aural	-egress from building -visual aids	-flashing light fire alarm system -electronically adapted lights to replace doorbells, buzzers, timers, etc.
Environmental	-replace hazards	-remove and replace fluorescent lights -install central or standard air conditioning
Mobile	-access into home -access within home -access to facilities in home	-install ramps -install handrails -widen doors -widen passageways -install accessible hardware (doorknobs, light fixtures, electrical outlets) -install chair lifts -refit bathroom commode, vanity, shower, sink, etc. -remove/install carpets or hard floor surface -refit kitchen countertops, and cabinets -relocate electrical outlets and switches
Visual	-light magnification -safety/security -access within home	-electrical rewiring to provide for power lighting -enlarge or install windows -install railings -replace louver-type windows with pane glass -replace hinge doors with pocket doors -install electronic security system -install ramps -remove protruding walls

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AND TOURISM

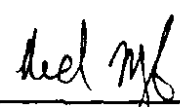
The repeal of chapter 6-319 and the adoption of chapter 15-166, Hawaii Administrative Rules, on the Summary Page dated August 27, 1999, was adopted on August 27, 1999, following public hearings held on Maui on July 15, 1999, Hilo on July 16, 1999, Oahu on July 19, 1999, and Kauai on July 20, 1999, after public notice was given in the Midweek newspaper on June 7, 1999.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.


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10-14-99

OCT 15 1999

Filed

LIEUTENANT GOVERNOR
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'99 OCT 15 P2:1